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Appendix V.

[Vide item VI on page 33 supra.]

REPORT OF THE COMMITTEE OF PRIVILEGES ON THE QUESTION WHETHER A PUBLICATION IN THE "DINA THANTHI" CONSTITUTED A BREACH OF PRIVILEGES OF THE HOUSE.

To

The Honourable the LEGISLATIVE ASSEMBLY.
Madras.

I. Introduction.

I, the Chairman of the Committee of Privileges, present this report to the House on the question of breach of privilege, viz., the publication on the front page headings and the report appearing thereunder in the City edition of "Dina Thanthi", dated 9th September 1958, with reference to certain answers given by the Home Minister relating to registration of marriages in the Assembly on 8th September 1958.

A question of privilege was raised by Hon. Sri M. Bhaktavatsalam, Minister for Home, on 9th September 1958 and it was referred to the Committee by a motion made and carried in the House on 9th September 1958.

2. The Committee held four sittings. At its first sitting on 22nd September 1958, a note (Appendix II) was circulated by the Secretary, Legislature Department, setting out the facts of the case, the law, practice and precedents on the subject. After a preliminary discussion the Committee decided that the Editor of the "Dina Thanthi" should be summoned to appear before it on the 18th October 1958, so that the Committee may hear what he had to say in the matter.

3. At its second sitting on 18th October 1958, the Editor of the paper who appeared before the Committee requested the Committee to adjourn the hearing as he had not been furnished with a copy of the relevant proceedings required. Thereupon the Committee decided to furnish a copy of the official report of the relevant proceedings and adjourned the hearing to 2nd November 1958. True copy of the proceedings was also furnished to the Editor.

4. At its third sitting on 2nd November 1958, the Chairman read out to the Committee a further letter (Appendix I) received from the Editor setting out some facts and ultimately expressing his unconditional regard for the publication. The Committee also heard the Editor. Questions put to him and his answers are appended to this report.

5. At its fourth sitting on 5th November 1958, the Committee deliberated on the draft report and adopted it.

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II. Facts of the case.

On the front page of the City edition of "Dina Thanthi", dated 9th September 1958, there appeared a full page eight-column headline in bold types with further sub-headlines which ran as follows :—

தாலி கட்டிவிட்டால், அது " கல்யாணம் " ஆகிவிடாது !

சட்டசபையில் மந்திரி பக்தவத்சலம் அறிவிப்பு.

சடங்குகள் இல்லாமல் செய்யப்படுகிற கல்யாணம் (அதாவது சுய மரியாதைக் கல்யாணம், ஒப்பந்த கல்யாணம் ஆகியவை) செல்லுபடி யாகாது. இந்தத் தகவலை போலீஸ் மந்திரி எம். பக்தவத்சலம் சென்னை சட்டசபையில் அறிவித்தார்.

சென்னை, செப். 9.

கல்யாணம் நடத்தும் முறைபற்றி சென்னை சட்டசபையில் கேள்விகள் கேட்கப்பட்டன.

<u>சடங்கு இல்லாமல்.</u>

சடங்கு இல்லாமல் ஒப்பந்தம் மூலம் செய்துகொண்ட கல்யாணம், செல்லுபடி ஆகாது என்று கோர்ட்டு தீர்ப்பு இருக்கிறது. அதனால், அந்தக் கல்யாணம் மூலம் பிறக்கிற குழந்தைகளுக்கு " பிள்ளை " என்ற உரிமை இல்லாமல் போய்விடுகிறது. ஆகவே தாலி கட்டினால் அது கல்யாணம் என்று அரசாங்கம் செய்யக் கூடாதா ?

மேற்கண்டவாறு கே. பி. எஸ். மணி (சீர்காழி தொகுதி மெம்பர்) கேட்டார்.

<u>செய்ய முடியாது.</u>

அதற்கு போலீஸ் மந்திரி பக்தவத்சலம் பதில் சொல்லுகையில் தெரி வித்ததாவது—

அவ்விதம் சட்டம் செய்ய முடியாது. சடங்கு இல்லாமல் சுயமரியாதை கல்யாணம் செய்து கொள்கிறவர்கள், அதை பதிவு செய்து கொள்ளலாம்.

<u>கட்டாய பதிவு.</u>

Sri A. A. RASHEED (வாணியம்பாடி தொகுதி மெம்பர்) : கேள்வி :

எல்லாத் திருமணங்களையும் கட்டாயமாக பதிவு செய்வதற்காக சட்டம் கொண்டு வர உத்தேசம் உண்டா ?

மந்திரி : பதில்—இல்லை.

<u>சட்டம் வராது.</u>

சுயமரியாதைக் கல்யாணங்களை செல்லுபடியாக்க சட்டம் கொண்டுவரப் பட மாட்டாது என்றும் மந்திரி தெரிவித்தார்.

An English translation of the above publication will read thus:

Tying of 'Thali' will not constitute "Marriage"!

Minister Bhaktavatsalam's announcement in the Legislative Assembly.

Marriage performed without ceremonies (i.e., Swayamariyathai marriage, registered marriage, etc.), is not valid. This information was given by Sri M. Bhaktavatsalam, Minister for Police, in the Madras Legislative Assembly.

Madras, September 9.

Questions were asked in the Madras Legislative Assembly regarding the procedure for performance of marriage.

Without ceremony.

Sri K. B. S. Mani (Member from Sirkali Constituency) put the following question :—

The Court has given judgment that marriage performed by way of registration without ceremonies will not be valid. Therefore, the "children" born out of that wedlock have no rights as such. Hence, will not the Government bring in a legislation laying down that if "Thali" is tied, it will be marriage?

Cannot do so.

While replying to that question, Bhaktavatsalam, the Minister for Police, observed :—

It is not possible to bring in such legislation. Those who get married under the Swayamariyathai system without ceremonies may get their marriages registered.

Compulsory registration.

Question by Sri A. A. Rasheed (Member from Vaniyambadi Constituency)—

Whether there is any proposal to bring in legislation for compulsory registration of all marriages?

The Minister : No.

Legislation will not be introduced.

The Minister stated that legislation will not be introduced for making Swayamariyathai marriage valid.

* * * * *

The proceedings as they appeared in the official report are as follows :—

Marriages.

Sri A. A. Rasheed : Will the Hon. the Minister for Home be pleased to state whether there is any proposal to bring in legislation for compulsory registration of all marriages?

The Hon. Sri M. Bhaktavatsalam : No, Sir.

* * * * *

Sri K. B. S. Mani : இப்பொழுது அதிகமாக சுயமரியாதைத் திருமணங்களும் புரோகிதர் இல்லாத திருமணங்களும்தான் நடைபெற்றுக் கொண்டு வருகின்றன. பேப்பர்களில் பார்த்தால் அதில் வருகிற பல திருமணங்களும் புரோகிதர் வைத்துச் செய்யாததினால் அத்திருமணங்கள் செல்லுபடியாகாது என்றும், அப்படி அவர்களுக்கு குழந்தைகள் பிறந்தால் கூட அப்பெண்கள் அவர்களது மனைவிகள் அல்ல என்று ஜட்ஜுகளால் தீர்ப்பளிக்கப்படுகிறது. ஆகவே கட்டாயமாக ரெஜிஸ்டர் செய்து கொள்ளவேண்டுமென்று இருந்தால்கூட, ஆயிரக் கணக்கான மக்கள்

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ரெஜிஸ்டர் செய்துகொள்ளாமல் இருக்கின்றனர். ஆகவே, தாலிகட்டினால் அவள் உண்மையிலே மனைவி என்ற திருத்தத்தை சர்க்கார் அமுலுக்குக் கொண்டுவருமா ?

THE HON. SRI M. BHAKTAVATSALAM : இம்மாதிரி திருமணங்களை ரெஜிஸ்டர் செய்துகொள்வதில் கஷ்டம் ஒன்றும் இல்லை. அங்கத்தினரவர்களே சமீபத்தில் திருமணம் செய்துகொண்டார்கள். அவர்கள் ரொஜிஸ்டர் செய்து கொண்டாரா இல்லையா என்று தெரியாது. அவர்களைப் போன்றவர்கள் மற்றவர்களுக்குச் சொல்லி இம்மாதிரி திருமணங்களை ரெஜிஸ்டர் செய்துவைப்பதுதான் நல்லது.

On this publication a motion was made in the House that it constituted a breach of privilege and the matter may be referred to the Committee of Privileges. The Hon. Speaker held that it constituted *prima facie* a breach of privilege and the House agreed to refer the matter to the Committee for consideration and report

III. FINDINGS OF THE COMMITTEE.

The question before the Committee was whether the headline and the news published thereunder in the daily in question constituted a breach of privilege of the House and what effect it will have in the minds of the public about the Hon. Minister who gave the answers. The Editor admitted when he was examined that the Ministry had not replied in the way it was reported in the " Dina Thanthi " and therefore the publication in the paper was incorrect. He also admitted that the proceedings as reported by the Reporter of the Daily did not contain the statements concerned in the proceedings before the Committee.

Under Article 194 (3) of the Constitution the powers, privileges and immunities of a House of the Legislature of a State and of the Members and the Committee of a House of such Legislature shall be such as may, from time to time, be defined by the Legislature by law and until so defined, shall be those of the House of Commons of Parliament of the United Kingdom, and of its Members and Committees, at the commencement of the Constitution. The following instances of misconduct in connection with the publication of debates have been treated in the House of Commons as breaches of privilege :—

(1) Publishing scandalous misrepresentations of what had passed in either House or what had been said in debate.

(2) Publishing gross or wilful misrepresentations of particular members' speeches.

(3) Publication of false or perverted reports of debates or proceedings of either House or Committees of either House.

The Committee is of opinion that the publication was besides being inaccurate a gross misrepresentation and perverted report of the proceedings of the House capable of misleading the public as to what the Hon. Minister said and therefore constituted a breach of privilege of the House.

The Committee finds that the publication came under items (2) and (3) mentioned above.

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With reference to the question of privilege that arose out of certain headlines which appeared in the same daily, dated 30th October 1957, the Committee had pointed out, in its report presented to the House in February 1958, that the proceedings of the Legislature should be presented to the people through the Press, but that while doing so, the Press should publish a fair report, but regrets to find an inaccurate report of the proceedings once again in this daily in spite of the apology tendered and the assurance given by the same Editor before the Committee on that prior occasion.

The Committee considered what action should be taken against the Editor of the paper. The Editor though he admitted before the Committee that the publication was inaccurate had not even taken the trouble to publish the correct version and express regret for such incorrect, misleading and perverted report.

Another factor the Committee had to consider was that the very same paper had committed a breach of privilege last year and has expressed regret but had again committed a breach and published a gross misrepresentation and perverted report of the proceedings. The paper seems to indulge in publishing incorrect proceedings with broad headlines with an exclamation mark (!) even. The lenience shown on the last occasion does not seem to have had any effect on the paper. In the case of the previous breach it was said to be the mistake of the Reporter but in this case the Sub-Editor had prepared the headline with reference to what the Press Reporter gave him and prepared the headline and the matter published. It is also admitted that the same was transmitted to the other editions of "Dina Thanthi" published at Tiruchirappalli and Madurai on the same date, giving the same headlines, etc. The Committee therefore recommends to the House that all facilities given to "Dina Thanthi" paper and the Press Ticket issued to the Reporter of that daily for covering the proceedings of the Legislative Assembly be suspended for a week during the next session of the Assembly.

FORT ST. GEORGE,
MADRAS-9,
5th November 1958.

K. RAMACHANDRAN,
Chairman.

Appendix I.

Copy of letter from Sri P. RAMARATNAM, B.A., Editor, "Daily Thanthi", Madras, addressed to the Hon. Chairman and Members of the Privilege Committee, Legislative Assembly, Madras, dated 2nd November 1958.

[Privilege issue—"Daily Thanthi".]

Millions of people in Tamilnad are under the impression that by tying a thali a Hindu marriage is completed. But, under the Hindu Marriages Act, tying a thali alone is not sufficient, if, as in Tamilnad, the custom includes saptapadi or the walking of seven steps hand in hand round the sacred fire.

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Sri K. B. S. MANI who put the question assumed this position of the law and asked the question as follows :—

" . . . ஆகவே, தாலி கட்டினால் அவள் உண்மையிலே மனைவி என்ற திருத்தத்தை சர்க்கார் அமுலுக்குக் கொண்டு வருமா ?"

He assumed the position of law as above stated and asked "whether the Government will introduce a Bill making thali tying sufficient for Hindu marriage"

The Hon. Minister also assumed the position of law as above stated and replied :

"இம்மாதிரி திருமணங்களை ரெஜிஸ்டர் செய்து கொள்வதில் கஷ்டம் ஒன்றுமில்லை . . . இம்மாதிரி திருமணங்களை ரெஜிஸ்டர் செய்து வைப்பதுதான் நல்லது."

In other words he is not prepared to bring an Act validating a Hindu marriage consisting of thali tying alone.

So, it was assumed by the questioner that thali tying alone is not sufficient. It was assumed by the Hon. Minister also that thali tying is by itself not sufficient.

The "Daily Thanthi's" heading merely expresses what is assumed both by the questioner and by the Hon. Minister.

In so putting explicitly what is assumed in both the question and the answer, I did not intend any disrespect to the Hon. House or to the Hon. Minister.

The "Daily Thanthi" is read by a large number of middle-class families and it is in their interest to know that under the law as it now stands thali tying alone is not sufficient to constitute a Hindu marriage and that no Bill is in contemplation for validating such marriages.

I have made a thorough enquiry in my office. I assure this Hon Committee that neither the Reporter nor the Sub-Editor had any intention of showing any disrespect to the Hon. House or to the Hon. Minister.

I beg to submit that unintended inaccuracies sometimes do occur. In connection with this very incident a mistake has occurred in the *Hindu* as per cutting enclosed, which put தாலி கட்டினால் கலியாணம் ஆகாது as தாலி கட்டாமல் கலியாணம் ஆகாது. The Hon. Members are also aware that in the official reports circulated to them for correction there do sometimes occur inaccuracies. I submit that in this case before this Hon. Committee nothing more has happened than an unintended inaccuracy. The inaccuracy consists of putting in express words what was implied in the question and the answer.

I hasten to tender my unconditional apology for the inaccuracy and request that this Hon. Committee be pleased to accept the apology and drop the matter.

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Appendix II.

Notes circulated to the Committee of Privileges on 22nd September 1958 and 18th October 1958.

A

On the 9th September 1958, Hon. Sri M. Bhaktavatsalam, Minister for Home, raised a privilege issue to the effect that the eight-column headlines published at page 1 of the "Dina Thanthi" City daily edition, dated 9th September 1958, constitute a breach of privilege of the House as no such statement was made by him, or that there is anything to warrant this conclusion in the answers given by him.

The publication in the paper was—

தாலி கட்டிவிட்டால் அது "கல்யாணம்" ஆகிவிடாது !

சட்ட சபையில் மந்திரி பக்தவத்சலம் அறிவிப்பு.

"சடங்குகள் இல்லாமல் செய்யப்படுகிற கல்யாணம் (அதாவது சுயமரியாதை கல்யாணம், ஒப்பந்த கல்யாணம் ஆகியவை) செல்லுபடியாகாது. இந்தத் தகவலை போலீஸ் மந்திரி எம். பக்தவத்சலம் சென்னை சட்ட சபையில் அறிவித்தார்.

சென்னை, செப். 9—கல்யாணம் நடத்தும் முறைபற்றி சென்னை சட்ட சபையில் கேள்விகள் கேட்கப்பட்டன.

English version of the publication was—

[Mere tying of thali will not constitute marriage. Announcement by Minister Bhaktavatsalam in the Assembly :

Marriages performed without certain prescribed ceremonies (Swayamariyathai marriages and registered marriages) are not valid. This information was given by Minister Bhaktavatsalam in the Assembly.

Questions were asked in the Assembly in the manner as to the performance of marriages.]

He had only stated to a question whether legislation may be brought forward to validate marriages without ceremonials, that there was no such proposals before the Government but that such marriages could be registered.

On this, the Hon. Speaker ruled that a *prima facie* case has been made out and if the Hon. Minister wants he may move a motion that and the matter was referred to the Privileges Committee.

On this, the Hon. Minister moved a motion for referring the matter to the Privileges Committee. The motion was put and carried and the matter was referred to the Privileges Committee.

Under Article 194 (3) of the Constitution, the powers, privileges and immunities of a House of the Legislature of a State and of the Members and the Committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its Members and Committees, at the commencement of the Constitution. The Madras Legislature has not yet defined the privileges.

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The right to publish debates and proceedings and the right to restrain publication by others as it obtains in England may be set out briefly as follows :—

" The House has long regarded speeches or writings which reflect upon it as among the acts which constitute a breach of privilege or contempt. In 1701, the House resolved that to print or publish any books or libels reflecting on the proceedings of the House is a high violation of the rights and privileges of the House (C.J. 1699–1702/767/), and indignities by words spoken or writings published reflecting on the character or proceedings of the House have been constantly punished upon the principle that such acts tend to obstruct the House in the performance of its functions by diminishing the respect due to it. The House of Lords has also observed the same principle in punishing spoken or written reflections as a contempt.

Reflections upon Members even where individuals are not named, may be so framed as to bring into disrepute the body to which they belong, and such reflections have therefore been treated as equivalent to reflections on the House itself." (Sir Gilbert Campion.)

Even now, it is within the jurisdiction of either House to withhold its proceedings from the public, if it so desires, and to punish any violation of its orders. Each House, however, waives its privileges in this respect so long as the published reports are accurate and fair. If wilfully misleading or incorrect accounts of the debates are published then those responsible for the publication will be punished, the technical ground for proceeding against them being that to publish the report at all is a breach of privilege.

The publication of parliamentary proceedings is protected by the same principles as that which protects the publication of proceedings in Courts of Justice, viz., that the advantage to the public, negatives the presumption of malice and outweighs any disadvantage to individuals. A fair and faithful report of the whole debate would not, therefore, be actionable. This does not, however, extend to the publication apart from the rest of the debate of an attack made in Parliament upon an individual. A garbled or partial report or of detached parts of proceedings published with intent to injure the individuals will also be disentitled to protection.

The following are instances of miscondct in connection with the publication of debates which have been treated as breach of privileges :—

(1) Publishing scandalous misrepresentation of what had passed in either House or what had been said in debate.

(2) Publishing gross or wilful misrepresentations of particular members' speeches.

(3) Publication of false or perverted reports of debates or proceedings of either House or Committees of either House.

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An instance of breach of privilege by a newspaper raised in the House of Commons is given below :—

Hobhouse's Case (1819).

On 10th December 1819, a complaint was made of a pamphlet, in which it was suggested that only the existence of the Army saved the Members of the House from the wrath of the people and that " nothing but brute force, or the pressing fear of it would reform Parliament ". The publisher of the pamphlet, Robert Stodart, was ordered to attend at the Bar, and he declared that the author of the pamphlet was John Cam Hobhouse. The latter was adjudged guilty of a breach of privilege, and committed to Newgate Prison; no penalty was imposed upon Stodart.

In Madras Legislature on 30th October 1957, the same paper in question gave a misleading headline and a report of the proceedings of this Legislative Assembly. The matter was gone into by the Committee of Privileges known as " Dina Thanthi " case and reported to the House that the publication amounted to false and perverted report of the debates and proceedings of the House. As the Editor published the paper had stated that he had no intention of casting aspersions on any Minister or any Members and further admitted that there was no connection between the headline and the body of the news and that the headline was false. He also expressed his regret specifically for the publication of the headline and assured that he would publish an apology expressing regret in the Madras, Tiruchirappalli and Madurai editions. An apology had also appeared in the City edition of the daily. Taking all these into consideration the Committee though satisfied that the publication was false and constituted a breach of privilege of the House considered that the apology tendered is sufficient and recommended that no further action in the matter be taken. The report was accepted by the Assembly and no further action was taken on the paper.

The same paper has again published a similar report. Therefore the question for consideration is whether the misrepresentation of the proceedings of the House is a breach of privilege of this House.

B

In continuation of the notes circulated to Members of the Privileges Committee, dated 22nd September 1958, the following cases also may be circulated to the Members :—

1. *Lok Sabha*—28th August 1956.—In the news item in " Hindusthan Times " a member was reported to have made the following statement :—

" Let it be understood that what stood in the way of the Minister and his Deputy were their physiques . . ."

The member mentioned in the House that he did not use the word " physique ". The Editor of " Hindusthan Times " was addressed. He expressed regret and the matter was closed.

(Lok Sabha Parliamentary Digest, Volume I, No. I, page 6.)

[5th February 1959

2. *Rajya Sabha*—1st May 1953.—The "Statesman" published certain extracts from uncorrected verbatim proceedings not intended for publication. A member raised it as a question of breach of privilege. The matter was not pursued in view of the regret expressed by the Editor of the paper subsequently.

(Lok Sabha Parliamentary Digest, Volume I, No. 3, page 8.)

3. *Legislative Assembly* (*Hyderabad*)—1st April 1954.—A member alleged that the local news agencies had not been reporting his speeches wtih the intention of suppressing his view. He raised the matter as a breach of privilege and it was referred to the Committee of Privileges. The Committee held that the suppression was not wilful and as such there was no case of breach of privilege.

(Lok Sabha Paliamentary Digest, Volume I, No. 4, pages 11-12.)

4. *Madhya Pradesh Vidhan Sabha*—(*a*) 26th December 1956.—A daily "Jagaran" gave a wrong report of the proceedings of the House and a member gave notice of Privilege Motion on the question. The representative of the paper wrote a letter apologising for the wrong report. The matter was dropped.

(Lok Sabha Parliamentary Digest, Volume I, No. 2, page 16.)

(*b*) 4th July 1957.—A member tabled a privilege motion stating that the "Nava Prabhat" a Hindi daily by publishing a false account of the proceedings of the Vidhan Sabha had committed a breach of privilege. The Speaker held that there was a *prima facie* case and the matter was referred to the Committee of Privileges.

(Lok Sabha Parliamentary Digest, Volume I, No. 3, page 1.)

5. *House of Commons* (*United Kingdom*)—25th July 1949.—The speech of a member reported in the "Daily Worker" was complained of as being a gross misrepresentation of his speech. Comparing the two versions of the speech in question the Privileges Committee found that although by virtue of a Resolution of the House of 3rd March 1762, any publication of reports of speeches of members it was technically a breach of privileges, the Committee did not consider that any action by the House was called for.

(Journal of Society of Clerks, Volume XVIII, page 297.)

6. *House of Representatives* (*Burma*).—9th March 1939.—An incorrect report of the proceedings of the House of Representatives was published in the newspaper "Sun". The Speaker warned the paper and other papers that the proceedings should be reported correctly.

(Journal of Society of Clerks, Volume VIII, page 222.)

T. HANUMANTHAPPA,
Secretary.